

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA
RAO

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W.P.NO.30674 OF 1997

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ORDER:

This writ petition was, initially, instituted by one Sri V. Krishnama Raju, who has since died and his Legal Representatives, with the permission of the Court, are prosecuting this writ petition.

A writ of Mandamus was solicited for declaring the action of the 2nd respondent – Mandal Revenue Officer, Tirupathi (Urban) Mandal, Tirupathi, seeking to dispossess the petitioner from the lands admeasuring Ac.0-15 cents situated in Survey No.697/2, Tirupathi (Urban) Mandal, Tirupathi.

It is the case of the petitioner that he and his wife, initially, purchased land of an extent of Ac.1-50 cents, situated in Survey No.697/2, Tirupathi (Urban) Mandal, in the year 1977 and that a small extent of Ac.0-15 cents of land, which is adjoining the land purchased by them was reclaimed and was brought under cultivation by him. He also asserted that he was in peaceful possession and enjoyment of the said extent of land also over the past twenty years. While so, the Mandal Revenue Officer, Tirupathi (Urban) Mandal, Tirupathi, has now embarked upon the exercise of dispossessing him from the said

land. When the petitioner solicited assignment of the said land in his favour, the District Collector - Competent Authority has initially pointed out that there is a dispute raised with regard to the land by a third-party, who instituted a writ petition in this Court and hence, his case for assignment of this land cannot be taken up. The writ petitioner has further asserted that that writ petition has since been dismissed by this Court and, therefore, there is no impediment for considering his claim for assigning this Ac.0-15 cents of land as requested by him through his letter dated 07-06-1996. He submits that the land in question was an Assessed Waste Dry-land, which has been completely reclaimed by him by his own efforts and since, the said land was abutting the western boundary of the land of Ac.1-50 cents, purchased by him, he has improved this Ac.0-15 cents of land also and subject to the usual conditions, which the State Government subjects on such assignments, the District Collector may consider his case.

I have heard Sri V. Jagapathi, learned counsel for the writ petitioner and the learned Government Pleader for Revenue (Assignments).

The learned Government Pleader, based upon the communication received by him on 12-11-2009, from the District Collector, Chittoor, has contended that the land situated in Survey No.697/2 of Akkarampalle village, Tirupathi (Urban) Mandal, is no doubt classified as Assessed Waste Dry-land, but however, in the Revenue

Records, it was also noted that a 'vagu' is passing through the said land and that the Tahsildar, Tirupathi (Urban) Mandal, has been instructed by the District Collector, to personally inspect the lands in question and file a report and, in turn, the Tahsildar has filed a report stating that the writ petitioner is in possession of Ac.0-02 ½ cents of land only out of the total extent of Ac.0-15 cents of land, though this assertion has been stoutly disputed by the writ petitioner. It is further submitted that through the 'vagu', the rainwater collected uphill passes through during the active monsoon period and any possible obstructions in the freeflow of waters through this 'vagu' is likely to cause inundation of the neighboring Sivajyothi Nagar area of Tirupathi Town, in which event large scale loss of life and property would be affected. He, therefore, opines that the land in question is not fit for being assigned to anyone including the writ petitioner and, in fact, it should be left as a freehold for enabling the rainwaters to pass through.

I have given my consideration to the rival submissions. If it is a fact that the rain waters collected uphill during the monsoon passes through the 'vagu' and if they pass through the land in question, in such a case, such land is not liable to be assigned in favour of any particular person, much less, the writ petitioner. But however, the writ petitioner submits that the rainwaters pass through entirely a different channel and the land in

question is not the one, which allows such rainwaters to pass through.

This is purely a factual dispute. Since, the writ petitioner has got a reasonable belief that the Tahsildar, Tirupathi (Urban) Mandal, may not have spared appropriate and adequate attention to this view of the matter, it is submitted that an inspection by the Joint Collector would, perhaps, bring out the truth or otherwise of the assertions made by the Tahsildar, Tirupathi (Urban) Mandal. I consider that the suggestion made deserves acceptance.

The Joint Collector, Chittoor, may take some little time off and inspect the land in question any time during his next visit to Tirupathi (Urban) area or at any other convenient moment, however, within the next six months period and determine whether the rainwaters possibly pass through the land in question or not. He may also determine as to whether the writ petitioner is actually in possession of the entire land of Ac.0-15 cents or he is in possession of only Ac.0-02½ cents of land as asserted by the Tahsildar, Tirupati (Urban) Mandal. The Joint Collector may file an appropriate report before the District Collector Chittoor, about the feasibility and appropriateness of assigning this land. If the District Collector and the Joint Collector were of the opinion that larger public interest demands that such a land should not be assigned at all, they may take such a decision, otherwise, if they feel that, if not the entire extent of land,

a portion of it can also be assigned, they may take appropriate decision in that regard and subject to the usual conditions, which are followed in such cases, may consider the case of the writ petitioner for assigning the said land. A decision in that regard may be taken and communicated to the writ petitioner as immediately as possible after the Joint Collector filed his report before the District Collector.

With this, the writ petition stands disposed of. No costs.

Nooty Ramamohana Rao, J

mrk

18th November 2009